

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

(HIPAA)

Effective April 14, 2003, Congress passed the Health Insurance Portability and Accountability Act (HIPAA). HIPAA provides privacy protections to every citizen of the United States, including foster parents and foster children. According to HIPAA, medical information must be strictly maintained as confidential except under certain circumstances. For example, foster parents are still able to disclose medical information to doctors and dentists when they are taking their foster children for medical appointments. Similarly, medical information may also be shared with social workers, CASA's and Child Advocates. Medical information should only be shared with the school on a need to know basis. For example, the school needs to know if the child is on asthma medication or has been diagnosed with ADD. However, the school does not need to know if the child wets the bed.

It has always been the Division's policy that foster parents must maintain the highest level of confidentiality as it relates to the child's medical conditions, the circumstances surrounding their foster placement, and all other personal information. This includes information about the child's biological family as well. A child's personal information should never be shared with friends, neighbors, co-workers, extended family, etc..

HIPAA has not changed federal laws concerning the disclosure of substance abuse information or information concerning sexually transmitted diseases, HIV status or pregnancy. According to 42 CFR, substance abuse information for youth over the age of 14 may never be disclosed without the youth's written consent. This even includes dirty urine screens and the youth's status in substance abuse treatment. Youth over the age of 12 must give written consent before any information is disclosed regarding sexually transmitted diseases, HIV status, or pregnancy.

For the first time, Congress has attached possible legal and financial sanctions if medical information is shared erroneously or vindictively. Possible sanctions include civil fines ranging from \$100 to \$250,000 and up to 10 years imprisonment.

If you have any questions about HIPAA or 42 CFR, please contact the Division's Privacy Officer, JoAnn Bruch at 6332690.